

Before the Board of Zoning Adjustment, D, C.

Application No. 11928 of Envoy Towers, Ltd. pursuant to Sections 8207.2 of the Zoning Regulations, for a special exception to permit a grocery store-delicatessen as provided by Section 3105.43 of the Regulations in the **R-5-C & C-M-2** zone, 2400 - 16th Street, N. W., (part of 1st floor), Lots 903, 920, Square 2571.

HEARING DATE: June 18, 1975
DECISION DATE: June 24, 1975

FINDINGS OF FACT:

1. Applicant proposes to establish a grocery store-delicatessen as an adjunct to an apartment house in the **R-5-C** portion of the structure which is located in the **R-5-C** and **C-M-2** zones.

2. The apartment house had previous use as a hotel with a restaurant adjunct and the proposed adjunct would be located in the restaurant facilities on the main floor of the structure.

3. Pursuant to Section 3105.43 of the Zoning Regulations the store would be limited to the main floor of the building; there would be **no** direct entrance to the store from outside the building; no signs or display indicating the existence of the store would be visible from outside the building; and no part of the store would be visible from the sidewalk.

4. Applicant's testimony states that he meets the requirement of Section 3105.43(d) of the Regulations for the center of the principal entrance of the apartment to be more than one fourth ($\frac{1}{4}$) mile walking distance from the nearest principal business street frontage of any business district previously established and operating in a commercial or industrial district. Applicant testified that U Street to the south and Columbia Road to the north are more than one-fourth ($\frac{1}{4}$) mile away in walking distance.

5. The Board finds that Section 3105.43(e) requires there to be more than one-fourth ($\frac{1}{4}$) mile walking distance from the proposed use to the nearest established business district. There is no requirement that there be an existing business located there -- the land may be vacant. A portion of Applicant's subject property and the property directly adjacent in the rear are zoned **C-M**.

6. The Board finds the hearing notice to the public is inadequate to grant Applicant's request to amend the application to include a variance from Section _____ of the Regulations and disagrees with Applicant's statement that the original hearing notice is broad enough to sufficiently cover the technical change of request. There was no reasonable notice to the public that the criterion required for a variance would be an issue before the Board.

7, There is no opposition of record to the application.

CONCLUSIONS OF LAW:

Upon consideration of the above findings of fact and the evidence of record the Board is of the opinion that there has been no adequate notice given to the public to allow Applicant to amend his application to include a request for variance from Section 3101.43(e). There has been no reasonable notice that the criterion required to allow a special exception would be an issue before the Board. The Board further concludes that **it** is not authorized to grant a special exception as Applicant **is** unable to meet the requirement set forth in Section 3105.43. Therefore, the special exception would not be in harmony with the general purpose and intent of the Zoning Regulations,

ORDER: **It** is hereby ordered that the above application be DENIED.

VOTE: 3-0-0 (Mr. Scrivener not voting after not having heard the case).

BY D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

James E. Miller

JAMES E. MILLER,
Secretary to the Board

FINAL DATE OF ORDER:

8/20/76